

1AP7 Rec'd PCT/PTO 30 DEC 2005

Express Mail Label No. EV 696282465 US Dated: December 30, 2005

Docket No.: 0102286.00155US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Christopher Bruce A. WHITELAW et al.

Application No.: 10/522356

Confirmation No.: 1380

Filed: January 26, 2005

Art Unit: N/A

For: MULTI-REPORTER GENE MODEL FOR
TOXICOLOGICAL SCREENING

Examiner: Not Yet Assigned

**RESPONSE TO DECISION ON
MISSING REQUIREMENTS MAILED 22 DECEMBER 2005**

MS PCT
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

The following documents are enclosed for filing in response to the Decision on the applicant's response to the Notification of Missing Requirements mailed 22 December 2005:

1. Corrected Application Data sheet concerning the deceased inventor;
2. Copy of the Decision on the applicant's response mailed 22 December 2005; and
3. Return Postcard.

It is not believed that any fees are due. However, should any fees or refunds be due in this case, please reference account number 08-0219.

Dated: December 30, 2005

Respectfully submitted,


By 

Lisa N. Geller
Registration No.: 51,726
WILMER CUTLER PICKERING HALE AND
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Attorney for Applicant

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;">(to be used for all correspondence after initial filing)</p>		Application Number	10/522356-Conf. #1380
		Filing Date	January 26, 2005
		First Named Inventor	WHITELAW
		Art Unit	N/A
		Examiner Name	Not Yet Assigned
Total Number of Pages in This Submission	8	Attorney Docket Number	0102286.00155US1

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Response to Decision on Missing Requirements; - Corrected Application Data Sheet; - Copy of Decision in Response to Notice to File Missing Requirements; and - Return Postcard.
<div style="border: 1px solid black; padding: 5px; min-height: 100px;"> Remarks </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	WILMER CUTLER PICKERING HALE AND DORR LLP		
Signature			
Printed name	Lisa N. Geller		
Date	30 December 2005	Reg. No.	51,726

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22 DEC 2005

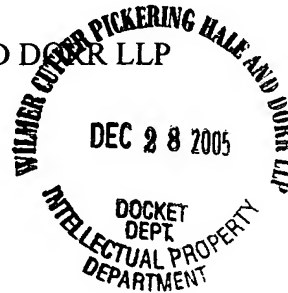
COPY



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In re Application of
WHITELAW et al
Application No.: 10/522,356
PCT No.: PCT/GB03/03192
Int. Filing Date: 25 July 2003
Priority Date: 26 July 2002
Attorney's Docket No.: 102286.155US1
For: MULTI-REPORTER GENE MODEL FOR
TOXICOLOGICAL SCREENING

DECISION

WILMER CUTLER PICKERING
HALE AND DORR LLP
102286.155US1
Action to be taken:
Docketed By: WCB On: 12-28-05

This decision is in response to the applicant's response file 24 October 2005 in response to the Notification of Missing Requirements mailed on 23 August 2005.

BACKGROUND

On 25 July 2003, applicant filed international application PCT/GB03/03192, which claimed priority of an earlier British application filed 26 July 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 February 2004. A Demand for international preliminary examination, in which the United States was elected, was filed on 26 February 2004. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 26 January 2005.

On 26 January 2005, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1); and an application data sheet.

On 23 August 2005, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905). The notification indicated that the legal documentation is needed for heir Helen Clark for the deceased inventor Anthony John Clark. The notification also indicated that there were problems with the submission of the sequence listing.

On 24 October 2005 applicant filed a copy of a declaration, a sequence listing, a diskette containing the sequence listing in computer readable form, a statement concerning the sequence listing and an amendment.

DISCUSSION


A review of the file reveals that applicants executed a declaration under PCT Rule 4.17(iv) in August 2003 and filed the declaration during the international phase of the application pursuant to 37 PCT Rule 26^{ter}.1. Because the declaration under PCT Rule 4.17(iv) is in compliance with the US Rule 1.497(a)¹ the declaration is acceptable for entry into the national stage. When an inventor dies, it is not necessary for the legal representative to intervene in the prosecution of the application. See MPEP 409.01(e) and (f). Therefore, since Anthony Clark executed the declaration prior to his death, it is not necessary for Helen Clark to sign the declaration.

It is noted that the Application Data Sheet filed with on the 26 January 2005 does not list Anthony Clark and Helen Clark in the manner set out in the *Patent Application Data Sheet, Format Guide for Submitting Bibliographic Data for Patent Applications*. See Example 4 on pages 20 and 21 of the *Guide*. A copy may be found at the USPTO's web site. (<http://www.uspto.gov/web/offices/pac/dapp/sir/doc/patappde.html>) Applicant may wish to file a corrected Application Data Sheet.

CONCLUSION

The application papers are accorded a 35 U.S.C. 102(c)(1), (c)(2) and (c)(4) and 371 date of **26 January 2005**.

The application is being returned to the National Stage Processing Division for further processing.

Leonard E. Smith
PCT Legal Examiner 
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration

LES:ls

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¹ (a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26 ter.1, he or she must file an oath or declaration that:

- (1) Is executed in accordance with either §§ 1.66 or 1.68;
- (2) Identifies the specification to which it is directed;
- (3) Identifies each inventor and the country of citizenship of each inventor; and
- (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.